

FILE COPY

STATE OF WISCONSIN  
BEFORE THE PHARMACY EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY  
PROCEEDINGS AGAINST

WAL-MART PHARMACY #10-1274,  
and DANIEL SOBCZAK, R.Ph.  
RESPONDENTS

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FINAL DECISION AND ORDER  
92 PHM 016

The parties to this action for the purposes of Wis. Stats. sec. 227.53  
are:

Wal-Mart Pharmacy # 10-1274  
1362 W. Main Street  
Whitewater, WI 53190

Daniel Sobczak, R.Ph.  
1022 Monroe Street  
Fort Atkinson, WI 53538

Pharmacy Examining Board  
P.O. Box 8935  
Madison, WI 53708-8935

Department of Regulation and Licensing  
Division of Enforcement  
P.O. Box 8935  
Madison, WI 53708-8935

The parties in this matter agree to the terms and conditions of the  
attached Stipulation as the final decision of this matter, subject to the  
approval of the Board. The Board has reviewed this Stipulation and considers  
it acceptable.

Accordingly, the Board in this matter adopts the attached Stipulation  
and makes the following:

FINDINGS OF FACT

1. Daniel Sobczak (D.O.B. 5/30/64) is duly licensed in the state of  
Wisconsin as a registered pharmacist (license # 11038). This license was  
first granted on December 16, 1987.

2. Mr. Sobczak's latest address on file with the Department of  
Regulation and Licensing is 1022 Monroe Street, Fort Atkinson, WI 53538.

3. Wal-Mart Pharmacy # 10-1274 is duly licensed in the State of Wisconsin as a pharmacy (license # 6951). This license was granted on March 21, 1989.

4. The pharmacy's latest address on file with the Department of Regulation and Licensing is 1362 W. Main Street, Whitewater, Wisconsin.

5. At all times relevant herein, Respondent, Daniel Sobczak, was the managing pharmacist of the Respondent pharmacy.

6. On December 27, 1991 Respondents dispensed to customer KM a prescription for Ilosone and a prescription for a decongestant by placing the medication containers in a white paper bag which was then given to a clerk to hand to the customer when payment was received at the cash register. No consultation was provided to the customer regarding the prescription. In addition, the decongestant prescription was for another customer, and was dispensed to KM in error.

#### CONCLUSIONS OF LAW

By the conduct described above, Respondents are subject to disciplinary action against their license to practice as a registered pharmacist and pharmacy in the state of Wisconsin, pursuant to Wis. Stats. sec. 450.10(12) and 450.11(1), and Wis. Adm. Code sec. Phar 7.01(1)(e).

The Wisconsin Pharmacy Examining Board has jurisdiction to act in this matter pursuant to Wis. Stats. sec. 450.10(1).

The Board is authorized to enter into the attached Stipulation pursuant to Wis. Stats. sec. 227.44(5).

#### ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that :

1. The attached stipulation is accepted.
2. Wal-Mart Pharmacy #10-1274 and Daniel Sobczak, R.Ph., are each REPRIMANDED for their unprofessional conduct in this matter.
3. Respondents shall each pay a civil forfeiture in the sum of \$50.00 for failing to provide to the customer appropriate consultation relative to the prescription dispensed.

4. Respondents shall pay to the Department of Regulation and Licensing the costs of investigation and prosecution of this matter in the sum of \$190.00 within 60 days of the date of this Order.

The rights of a party aggrieved by this Decision to petition the Board for rehearing and to petition for judicial review are set forth on the attached "Notice of Appeal Information".

This Order shall become effective on the date of its signing.

Dated this 8<sup>th</sup> day of December, 1992.

WISCONSIN PHARMACY EXAMINING BOARD

by Thomas M. Lenz  
a member of the Board

STATE OF WISCONSIN  
BEFORE THE PHARMACY EXAMINING BOARD

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IN THE MATTER OF	:	
DISCIPLINARY PROCEEDINGS AGAINST	:	STIPULATION
WAL-MART PHARMACY # 1274, and,	:	92 PHM 016
DANIEL SOBCZAK, R.Ph.,	:	
RESPONDENTS	:	

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It is hereby stipulated between Daniel Sobczak, personally on his own behalf and Wal-Mart Pharmacy # 10-1274 by its duly authorized representative, and James W. Harris, Attorney for the Department of Regulation and Licensing, Division of Enforcement, as follows that:

1. This Stipulation is entered into as a result of a pending investigation of Respondents's licensure by the Division of Enforcement. Respondents consent to the resolution of this investigation by stipulation and without the issuance of a formal complaint.

2. Respondents understand that by the signing of this Stipulation they voluntarily and knowingly waive their rights, including: the right to a hearing on the allegations against them, at which time the state has the burden of proving those allegations by a preponderance of the evidence; the right to confront and cross-examine the witnesses against them; the right to call witnesses on their behalf and to compel their attendance by subpoena; the right to testify themselves; the right to file objections to any proposed decision and to present briefs or oral arguments to the officials who are to render the final decision; the right to petition for rehearing; and all other applicable rights afforded to them under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, and the Wisconsin Administrative Code.

3. Respondents are aware of their right to seek legal representation and has been provided the opportunity to seek legal advice prior to signing this stipulation.

4. Respondents agree to the adoption of the attached Final Decision and Order by the Pharmacy Examining Board. The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Respondents waive all rights to any appeal of the Board's order, if adopted in the form as attached.

5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall be returned to the Division of Enforcement for further proceedings. In the event that this Stipulation is not accepted by the Board, the parties agree not to contend that the Board has been prejudiced or biased in any manner by the consideration of this attempted resolution.

. The parties to this stipulation agree that the attorney for the Division of Enforcement may appear before the Pharmacy Examining Board for the purposes of speaking in support of this agreement and answering questions that the members of the Board may have in connection with their deliberations on the stipulation.

. The Division of Enforcement joins Respondents in recommending the Pharmacy Examining Board adopt this Stipulation and issue the attached Final Decision and Order.

Daniel J Sobczak  
Daniel Sobczak

Nov 5, 1992  
Date

Clarence H. Acker, VP Pharmacy  
Wal-Mart Pharmacy 10-1274, by ,

Nov 3, 1992  
Date

James W. Harris  
James W. Harris, Attorney  
Division of Enforcement

NOVEMBER 7, 1992  
Date

## **NOTICE OF APPEAL INFORMATION**

**(Notice of Rights for Rehearing or Judicial Review,  
the times allowed for each, and the identification  
of the party to be named as respondent)**

**The following notice is served on you as part of the final decision:**

### **1. Rehearing.**

**Any person aggrieved by this order may petition for a rehearing within 20 days of the service of this decision, as provided in section 227.49 of the Wisconsin Statutes, a copy of which is attached. The 20 day period commences the day after personal service or mailing of this decision. (The date of mailing of this decision is shown below.) The petition for rehearing should be filed with the State of Wisconsin Pharmacy Examining Board.**

**A petition for rehearing is not a prerequisite for appeal directly to circuit court through a petition for judicial review.**

### **2. Judicial Review.**

**Any person aggrieved by this decision has a right to petition for judicial review of this decision as provided in section 227.53 of the Wisconsin Statutes, a copy of which is attached. The petition should be filed in circuit court and served upon the State of Wisconsin Pharmacy Examining Board**

**within 30 days of service of this decision if there has been no petition for rehearing, or within 30 days of service of the order finally disposing of the petition for rehearing, or within 30 days after the final disposition by operation of law of any petition for rehearing.**

**The 30 day period commences the day after personal service or mailing of the decision or order, or the day after the final disposition by operation of the law of any petition for rehearing. (The date of mailing of this decision is shown below.) A petition for judicial review should be served upon, and name as the respondent, the following: the State of Wisconsin Pharmacy Examining Board.**

**The date of mailing of this decision is** December 10, 1992.